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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,609	10/31/2003	John W. Koenig	7175-73841	9877
23643	7590	05/05/2005	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			CONLEY, FREDRICK C	
			ART UNIT	PAPER NUMBER
			3673	
DATE MAILED: 05/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,609

Applicant(s)

KOENIG ET AL.

Examiner

FREDRICK C CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43 and 45-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43 and 45-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 43 and 45-55 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,339,855 to Socha et al.

Claim 43, Socha discloses an apparatus comprising;

a person support 2 having a periphery and an upwardly facing surface, and
a crib structure configured to support the person support, the crib structure having a pair of spaced apart end units 3, each end unit having a top surface 5, the crib structure having a plurality of crib rail assemblies 3 positioned about the periphery of the person support and movable vertically relative to the person support and relative to the end units, each of the crib rail assemblies having a top edge 5, the crib rail assemblies being movable to a position in which the top surfaces of the end units, the top edges of the crib rail assemblies, and the upwardly facing surface of the person support are substantially coplanar (col. 4 lines 42-46).

Claim 45, Socha discloses an apparatus comprising a person support 2 having a periphery and an upwardly facing surface, and a crib structure configured to support the person support, the crib structure having a pair of spaced apart end units 3, each end unit having a top surface 5, the crib structure having a plurality of crib rail assemblies 3 positioned about the periphery of the person support and movable vertically relative to the person support and relative to the end units, each of the crib rail assemblies having a top edge 5, the crib rail assemblies being movable to a position in which the top surfaces of the end units and the top edges of the crib rail assemblies are at substantially coplanar with or below the upwardly facing surface of the person support (col. 4 lines 42-46).

Claim 46, wherein the person support comprises a mattress.

Claim 47, wherein the plurality of crib rail assemblies comprises at least one side rail and at least one end rail.

Claim 48, wherein the at least one side rail is movable between a raised position and a lowered position through an intermediate position, and the at least one end rail is movable between a raised position and a lowered position (col. 5 lines 5-20).

Claim 49, wherein, when the at least one siderail and the at least one endrail are in their respective raised positions, the top edges of the at least one siderail and the at least one endrail are substantially coplanar.

Claim 50, wherein, when the at least one siderail and the at least one endrail are in their respective raised positions, the top edges of the at least one siderail and the at least one endrail are capable of being at independent elevations, such that the top edges of

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the at least one side rail and the at least one endrail are capable of being substantially coplanar (col. 5 lines 15-20).

Claim 51, when the at least one siderail is in the intermediate position and the at least one endrail is in the lowered position, the top edges of the at least one siderail and the at least one endrail are capable of being substantially coplanar (col. 5 lines 15-20).

Claim 52, wherein, when the at least one siderail is in the intermediate position and the at least one endrail is in the lowered position, the top edges of the at least one siderail and the at least one endrail and the top surfaces of the end units are capable of being substantially coplanar (col. 5 lines 15-20).

Claim 53, wherein, when the at least one siderail and the at least one endrail are in their respective lowered positions, the top edge of the at least one siderail is capable of being lower in elevation than the top edge of the at least one endrail (col. 5 lines 15-20).

Claim 54, wherein, when the at least one siderail and the at least one endrail are in their respective lowered positions, the top edge of the at least one siderail is capable of being lower in elevation than the top surfaces of the end units (col. 5 lines 15-20).

Claim 55, wherein the adjacent spindle portions¹⁵ of the at least one siderail and the at least one endrail cooperate to form a passageway through which a medical line is capable of being routed (fig. 1A).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 56-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,339,855 to Socha et al. in view of U.S. Pat. No. 2,486,466 to Davis.

Claim 56, Socha discloses all of the Applicant's claimed limitations except for the person support being movable vertically between a raised and lowered position. Davis discloses a person support (E) that is vertically movable between a raised and a lowered position relative to the at least one siderail (C), at least one endrail and the end units (A)(col. 1 lines 1-20). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a person support as taught by Davis in order to prevent an attendant from stooping to reach an infant on the apparatus of Socha. Claim 57, wherein, when the at least one siderail and the at least one endrail are in their respective raised positions and the person support is in the raised position, the top edges of the at least one siderail and the at least one endrail are higher in elevation than the upwardly facing surface of the person support (fig. 1)(Davis).

Claim 58, wherein, when the at least one siderail is in the intermediate position, the at least one endrail is in the lowered position and the person support is in the raised position, the top edges of the at least one siderail and the at least one endrail and the

upwardly facing surface of the person support are capable of being substantially coplanar (col. 5 lines 15-20).

Claim 59, wherein, when the at least one siderail is in the intermediate position, the at least one endrail is in the lowered position and the person support is in the raised position, the top edges of the at least one siderail and the at least one endrail, the upwardly facing surface of the person support and the top surfaces of the end units are capable of being substantially coplanar (col. 5 lines 15-20).

Claim 60, wherein, when the at least one siderail is in the intermediate position, the at least one endrail is in the lowered position and the person support is in the raised position, the person support is generally at a height providing convenient access by a person to the upwardly facing surface of the person support without having to bend substantially at the person's waist.

Claim 61, wherein, when the at least one endrail, the at least one side rail and the person support are in their respective lowered positions, the top edge of the at least one endrail is higher in elevation than the upwardly facing surface of the person support, and the top edge of the at least one siderail is capable of being substantially coplanar with the upwardly facing surface of the person support (col. 4 lines 42-46).

Claim 62, wherein, when the at least one endrail, the at least one side rail and the person support are in their respective lowered positions, the top edge of the at least one endrail is higher in elevation than the upwardly facing surface of the person support, the top edge of the at least one endrail is substantially coplanar with the top surfaces of the end units, and the top edge of the at

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least one siderail is capable of being substantially coplanar with the upwardly facing surface of the person support (col. 5 lines 15-20).

Claim 63, wherein, when the at least one endrail, the at least one siderail and the person support are in their respective lowered positions, the person support is generally at a height capable to provide convenient access to the upwardly facing surface of the person support by a person seated near the person support (col. 5 lines 15-20).

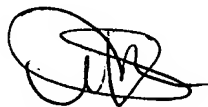
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



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